

CCRB INVESTIGATIVE RECOMMENDATION

Investigator Assigned:	Team:	CCRB Case #:	<input type="checkbox"/> Force <input checked="" type="checkbox"/> Courtesy <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Constantinos Stivaros	Team # 2	201015877	
Date/Time of Incident:	Location of Incident: 1862 Lexington Avenue	Pct. of Occurrence: 25	Date S.O.L. Expires: 05/12/2012
Date/Time C/V Reported:	C/V Reported At: IAB	How C/V Reported: Phone	Date/Time Received at CCRB: Thu, 11/18/2010 02:07 PM
Fri, 11/12/2010 08:50 PM			

Complainant/Victim	Type	Home Address
1.		
2.		
3.		

Witness(es)	Type	Home Address
1.		
2.		
3.		

Subject Officer(s)	Shield	TaxID	Command
1. POM Joseph Cordones	13491		PBMN TF
2.			
3.			
4.			

Officer(s)	Allegation	Recommendation
A. POM Joseph Cordones	Abuse of Authority: PO Joseph Cordones stopped Daniel Lugo and Yasin Garnett.	A. Substantiated
B.		
C. POM Joseph Cordones	Abuse of Authority: PO Joseph Cordones frisked Daniel Lugo.	C. Substantiated
D.		
E.		
F.		
G.		
H.		
I.		
J.		
K.		
L.		
M.		
N.		
O.		
P.		
Q.		
R.		
S.		
T.		
U.		
V.		
W.		
X.		
Y.		
Z.		

Officer History

Officer Name : Cordones, Joseph

Tax ID : [REDACTED]

Sex : Male

Shield : 5046

Race : Hispanic

Rank : SGT

Command : 049

DoBirth : [REDACTED]

Appt Date : 07/09/2007

Age : 33

Tenure : 10

CCRB #	Rept Date	Inc Date	Allegation	Disposition	NYPD		Command
					Disposition	Penalty	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			137
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			137
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			137
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			137
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			137
11/18/2010	11/12/2010	Abuse - Frisk		Substantiated (Charges)	Instructions	Instruction	137
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			137
11/18/2010	11/12/2010	Abuse - Stop		Substantiated (Charges)	No Disciplinary Action-DUP	Instruction	137
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			049
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			049

Total Charges = 10

Total Cases = 4

CCRB INVESTIGATIVE RECOMMENDATION

Officer(s)	Allegation	Recommendation
[REDACTED]	[REDACTED]	[REDACTED]

Case Summary

On November 12, 2010, [REDACTED] called the IAB Command Center and filed a complaint under IAB log #10-56696 (encl. B1). On November 18, 2010, the complaint was forwarded to the CCRB under IAB log #10-57098 (encl. B2-4). On November 12, 2010, [REDACTED] and [REDACTED] were outside 1862 Lexington Avenue in Manhattan. As they were outside, four police officers approached them. The following allegations resulted:

Allegation A – Abuse: PO Joseph Cordones stopped [REDACTED] and [REDACTED]

Allegation C – Abuse: PO Joseph Cordones frisked [REDACTED]

The investigation determined that PO Cordones did not have reasonable suspicion to frisk [REDACTED]. It is recommended that **Allegations C** be closed as **substantiated**.

[REDACTED]

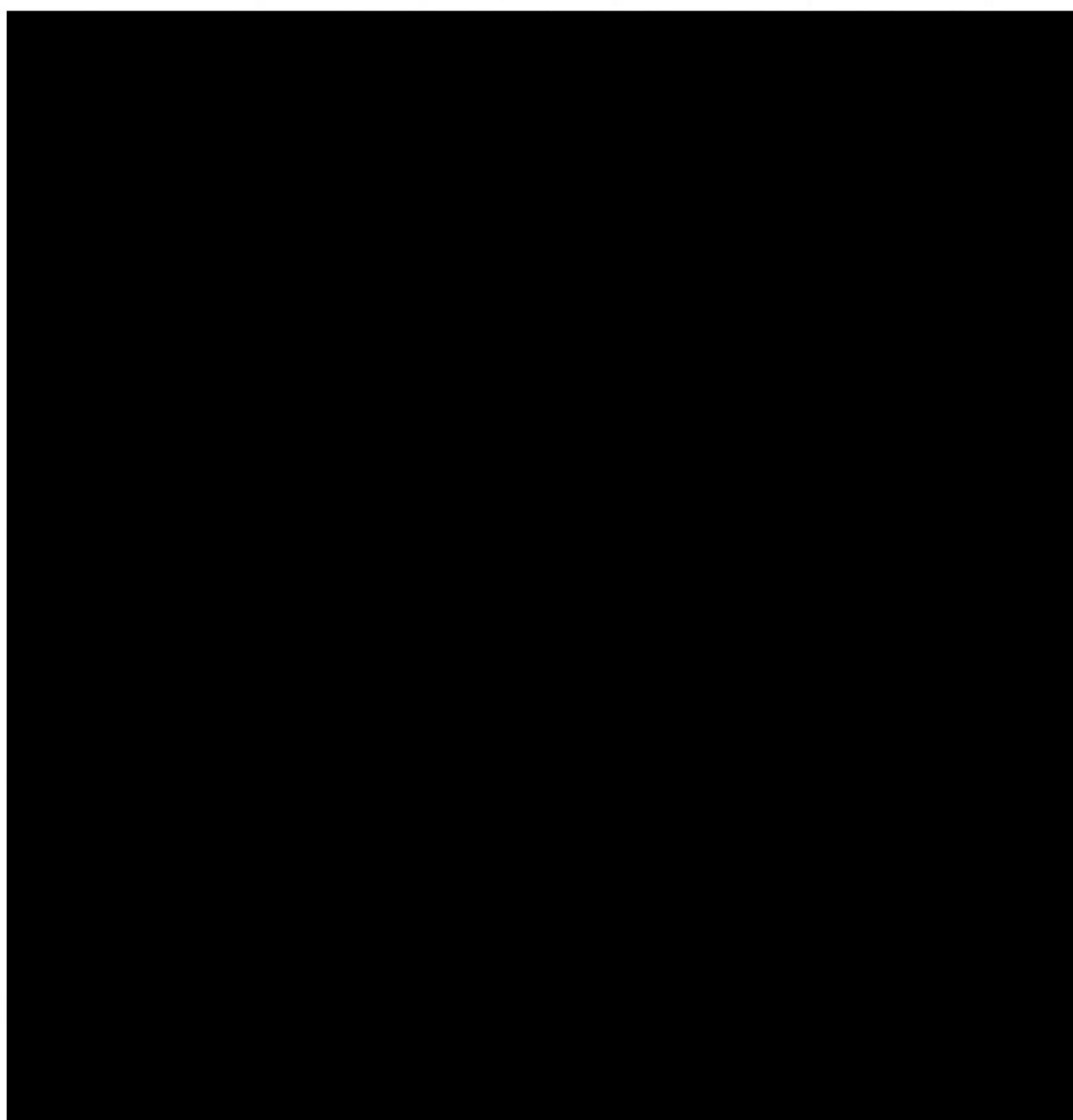
Results of Investigation

Civilian Statement(s)

[REDACTED]

While [REDACTED] was searched by PO Romeo and PO Reyerson, he saw two officers identified through investigation as PO Joseph Cordones and PO Isaac Everett search [REDACTED] and also make him lower his pants. While [REDACTED] was being searched, he could also hear [REDACTED] running across the street asking what was going on.

[REDACTED]



Phone Statement

On November 30, 2010, [REDACTED] provided a phone statement (encl. B6). On November 12, 2010, [REDACTED] was waiting with [REDACTED] outside a hair salon for [REDACTED]'s sister. As they were waiting, two police vehicles pulled up and four officers jumped out and began

searching him and [REDACTED]

CCRB Testimony

On December 21, 2010, [REDACTED] appeared at the CCRB to be interviewed (encl. B13-17). [REDACTED] 's testimony was consistent with that made by [REDACTED] with the following additional details and inconsistencies:

[REDACTED] walked from his house on [REDACTED] at approximately 8:50 p.m. on November 12, 2010. [REDACTED] was wearing jeans and a green sweater. At [REDACTED], a barber shop, [REDACTED] saw [REDACTED] and verbally greeted him and shook his hand.

All four officers approached [REDACTED] and [REDACTED] and told them to put their hands up against the wall. [REDACTED] was confused by the order and repeated it back to the officers. PO Cordones frisked [REDACTED]'s pants and went into his pants pockets and PO Everett frisked his sleeves and sweater [REDACTED]

[REDACTED]

[REDACTED]

Phone Statement

On November 30, 2010, [REDACTED] provided a phone statement (encl. B6). [REDACTED] was across the street from [REDACTED] and [REDACTED]. She could see the officers come and stop them.

[REDACTED]

[REDACTED] confirmed that [REDACTED] and [REDACTED] were frisked and searched by PO Cordones and PO Everett respectively. PO Cordones and PO Everett handcuffed [REDACTED] and [REDACTED] and escorted them to the patrol car and began to put them in.

[REDACTED]

- [REDACTED] called the IAB command center to file the complaint but wanted to remain anonymous and did not provide any pedigree information.
- [REDACTED]

[REDACTED] He saw four officers approach a black male, identified as [REDACTED], and a Hispanic male, identified as [REDACTED], and search them. [REDACTED] then saw the officers talking to just [REDACTED] and issuing him a summons while [REDACTED] stayed quiet. Then both of the civilians were put in handcuffs. [REDACTED]

[REDACTED]

NYPD Statement(s):

Subject Officer: JOSEPH CORDONES

- *PO Cordones is a 26-year-old Hispanic male, 6'0" tall, 195 lbs with black hair and black eyes.*
- *PO Cordones was assigned to patrol the 23rd Precinct with PO Everett in marked RMP #1973 from 5:30 p.m. on November 12, 2010 to 2:05 a.m. on November 13, 2010. PO Cordones worked in uniform.*

Memo Book

PO Cordones had the following memo book entries in regards to the incident: At 8:45 p.m., three under in front of [REDACTED] two males for disorderly conduct and one female for OGA, Disorderly Conduct, and assaulting an officer (encl. D1-3).

CCRB Testimony

On February 11, 2011, Officer Cordones appeared at the CCRB to be interviewed (encl. D4-6). At approximately 8:40 p.m., PO Cordones and PO Everett conducted a vertical patrol in the building on the southeast corner of the intersection of Lexington Avenue and East 116th Street in Manhattan. While on the roof of the building, PO Cordones observed two individuals engaged in a hand to hand transaction. He saw a Hispanic male, identified as [REDACTED], take something from his waist and hand it to a black male, identified as [REDACTED] with his fist closed. [REDACTED] and [REDACTED] walked down the block with their fists closed and put what they had in their fists in their pockets. He did not see any objects or currency. Two unidentified officers on foot patrol also walked down the street. [REDACTED] and [REDACTED] pointed out the officers to each other and walked into a grocery store and remained inside until the officers passed by. At this point, PO Cordones and PO Everett decided to stop the individuals because of the suspicious behavior.

PO Cordones then called PO Romeo and PO Reyerson with a cell phone, asked them to be backup during the stop, and did not provide any information in regards to the stop. PO Romeo and PO Reyerson agreed and did not ask for any further information. PO Cordones was unsure if PO Romeo and PO Reyerson were on the roof with them or not. He was sure that he had already decided to stop the individuals before he contacted them.

The four officers approached the two males in front of [REDACTED]. PO Cordones and PO Everett went to interact with [REDACTED] and [REDACTED] while PO Romeo and PO Reyerson stayed behind as backup. PO Cordones and PO Everett approached the individuals and asked them what they were doing in the area and where they live. PO Cordones also immediately asked them if they had anything sharp on them and frisked [REDACTED] right at the beginning of the interaction. PO Cordones is unsure if he also frisked [REDACTED] or if somebody else did.

After the frisk, [REDACTED] and [REDACTED] refused to answer questions and became loud. A crowd of approximately seven to ten individuals began to form. [REDACTED] and [REDACTED] began accosting the officers by calling them racist and telling them that they were violating their rights. They also taunted the officers by asking them if they wanted to keep searching them. [REDACTED] pulled his pants down to approximately his knees and asked the officers if they wanted to search him. The officers never asked [REDACTED] or [REDACTED] to lower their pants. They also did not conduct a search of their pants or frisked their underwear. PO Cordones told [REDACTED] to act like

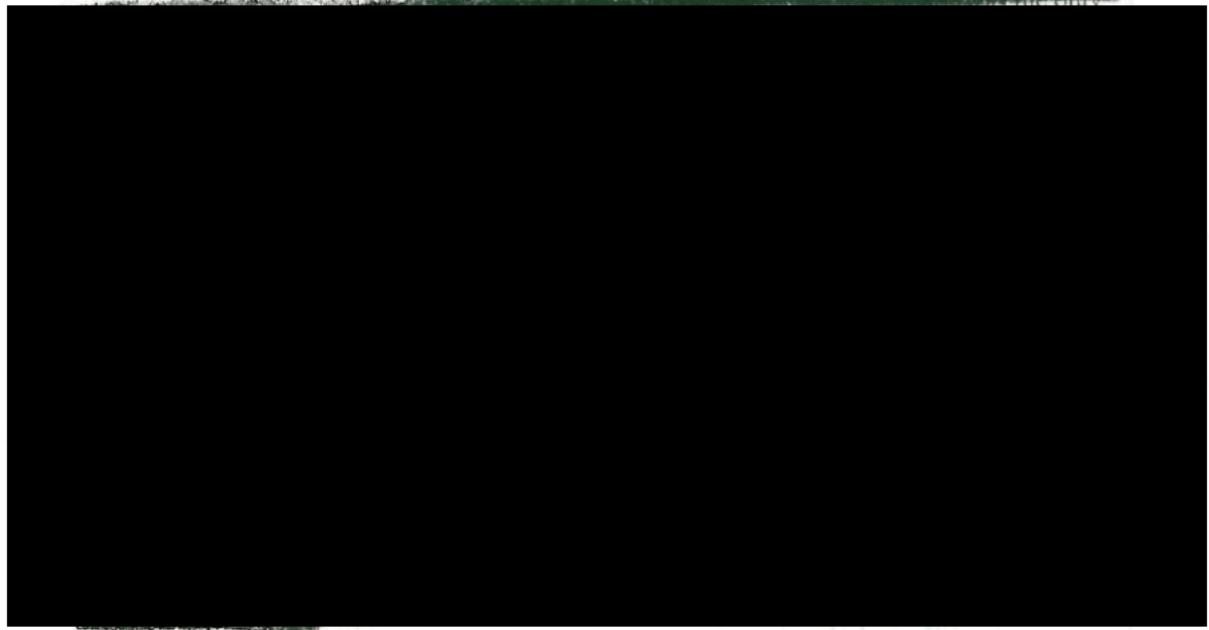
an adult and pull his pants up. PO Cordones stated he did not want to continue touching [REDACTED] at this point. He stated [REDACTED] did not lower his pants.

[REDACTED]

[REDACTED] PO Cordones put them in handcuffs and did not conduct any further frisks or searches on scene. [REDACTED] Only a frisk was conducted at the initiation of the interaction between the civilians and the officers. The officers told the males that they were going to be taken to the stationhouse and just given disorderly conduct summonses and released.

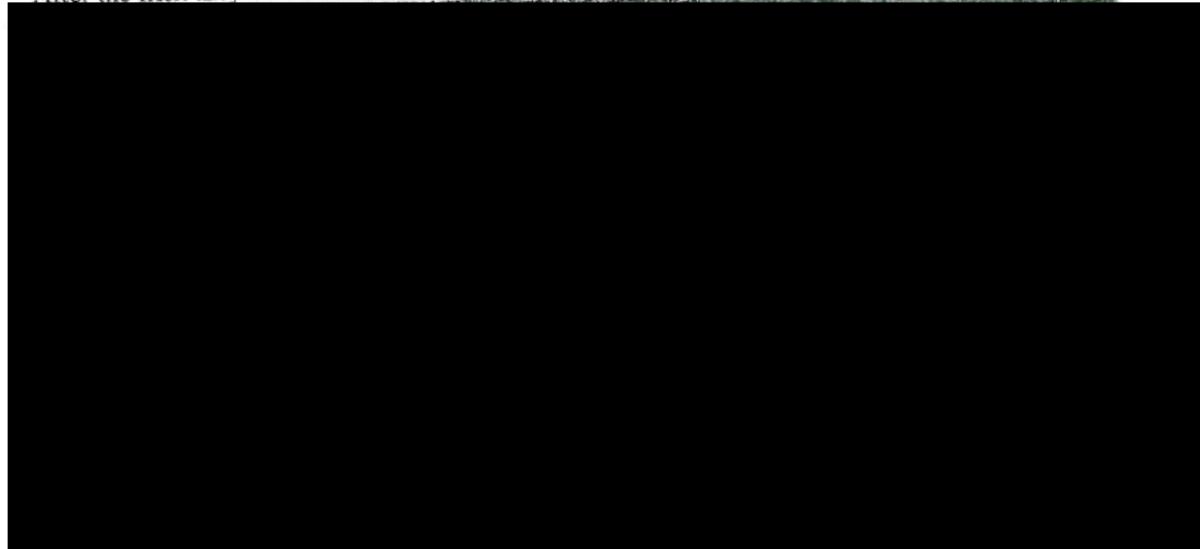
[REDACTED] and [REDACTED] were handcuffed. [REDACTED]

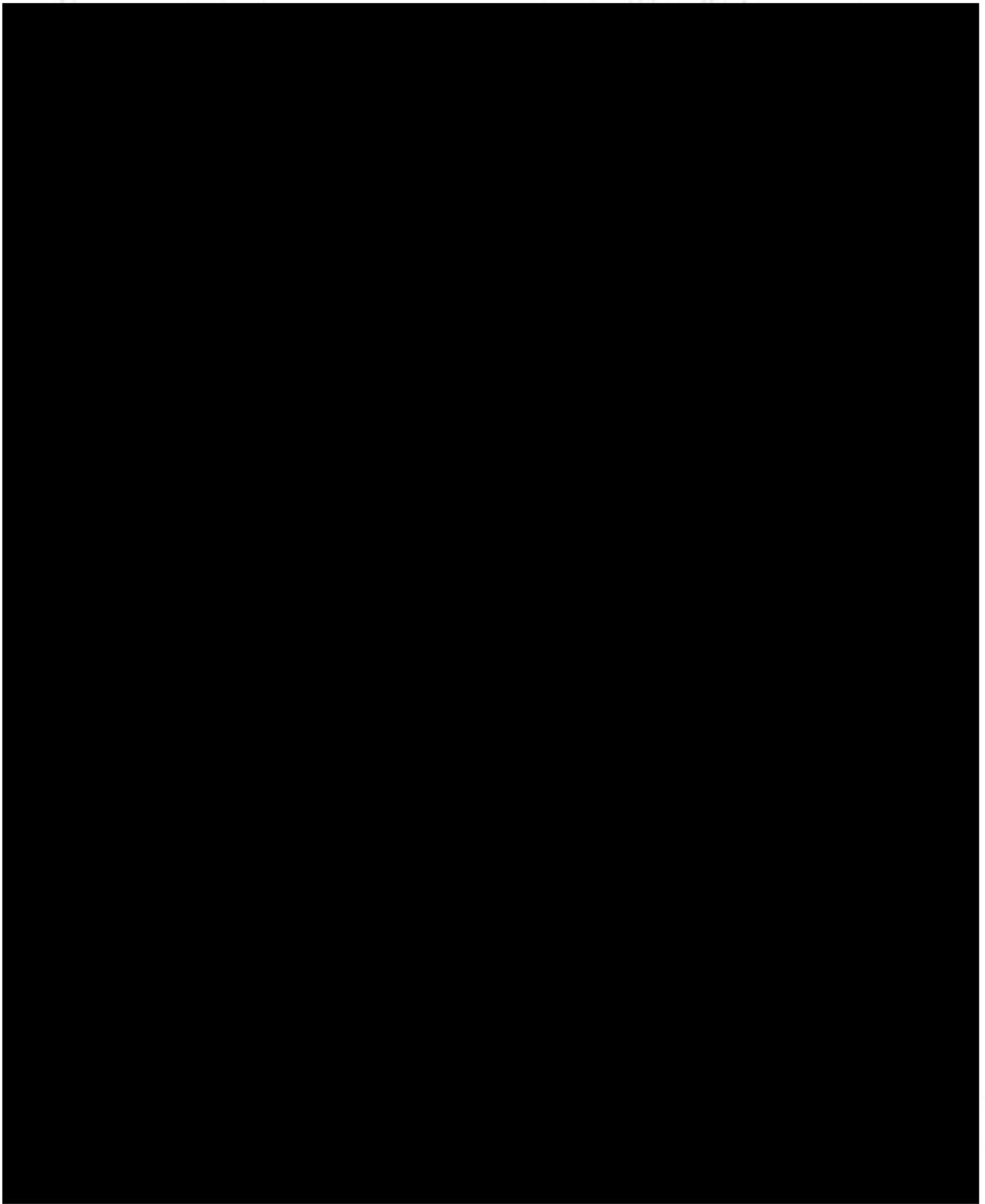
[REDACTED]



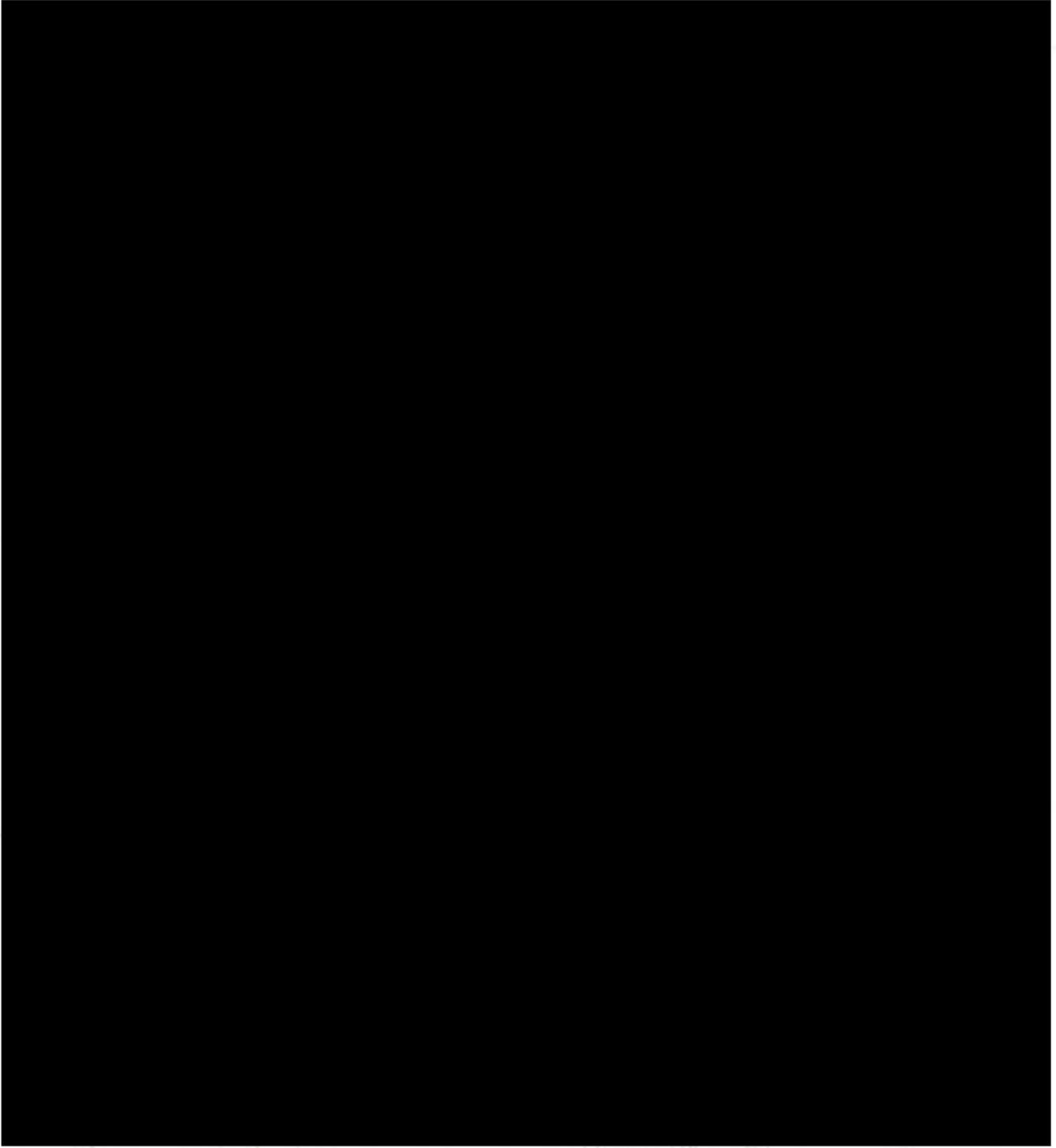
After about five to ten seconds of observation from the rooftop, PO Everett saw two males halfway between East 115th Street and East 116th Street on the west side of Lexington Avenue make a hand to hand transaction but did not see any object being exchanged. He described it as a handshake but one of the individuals left his fist closed after the transaction and then put his hand in his pocket.

When the officers first approached [REDACTED] and [REDACTED] PO Cordones frisked both of them. After the frisk they both became loud and agitated and were cursing [REDACTED]

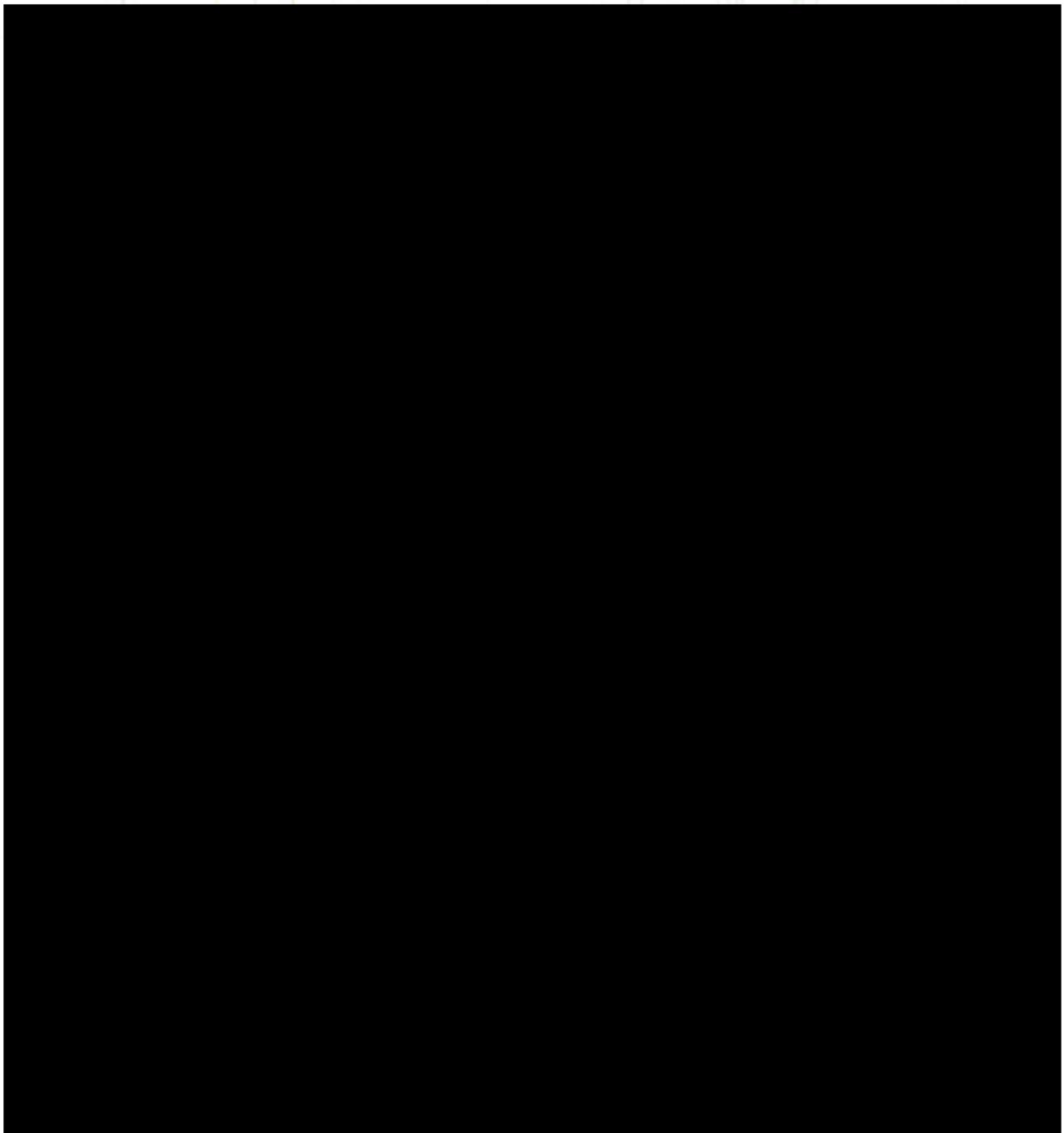




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Conclusion

Identification of Subject Officer(s)

All subject officers admit to interacting with the victims.

Allegation Not Pled

PO Cordones and PO Everett testified to making the decision to stop [REDACTED] and before notifying PO Reyerson and PO Romeo to back them up [REDACTED]

Investigative Findings and Recommendations

Allegation A – Abuse: PO Joseph Cordones stopped [REDACTED] and [REDACTED]

Allegation B – Abuse: PO Isaac Everett stopped [REDACTED] and [REDACTED]

It is undisputed that PO Cordones, PO Everett, PO Reyerson, and PO Romeo approached [REDACTED] and [REDACTED] outside of [REDACTED] in Manhattan. The officers allege that [REDACTED] and [REDACTED] engaged in a hand to hand transaction of some kind. The officers admit to not seeing an exchange of any objects or currency. The officers also allege that [REDACTED] and [REDACTED] walked into a store after seeing two uniformed officers and did not come out until the officers had left the area. The officers stated that these observations were made unaided from the rooftop of a five story building across the street and half a block away from the location of the civilians. PO Everett also stated that the location was a drug prone area where drug arrests have been made in the past. The officers used these observations to justify their stop. [REDACTED] and [REDACTED] admit to hugging and shaking hands when meeting each other outside of the barber shop at [REDACTED]

Innocuous behavior will not generate a founded or reasonable suspicion that a crime is at hand. People vs. Moore 176 A.D.2d 297 (1991) (encl. 1-2). In addition, the police must possess reasonable suspicion at the time of the stop is done. People vs. DeBour 40 N.Y.2d 210 (1976) (encl. 3-15).

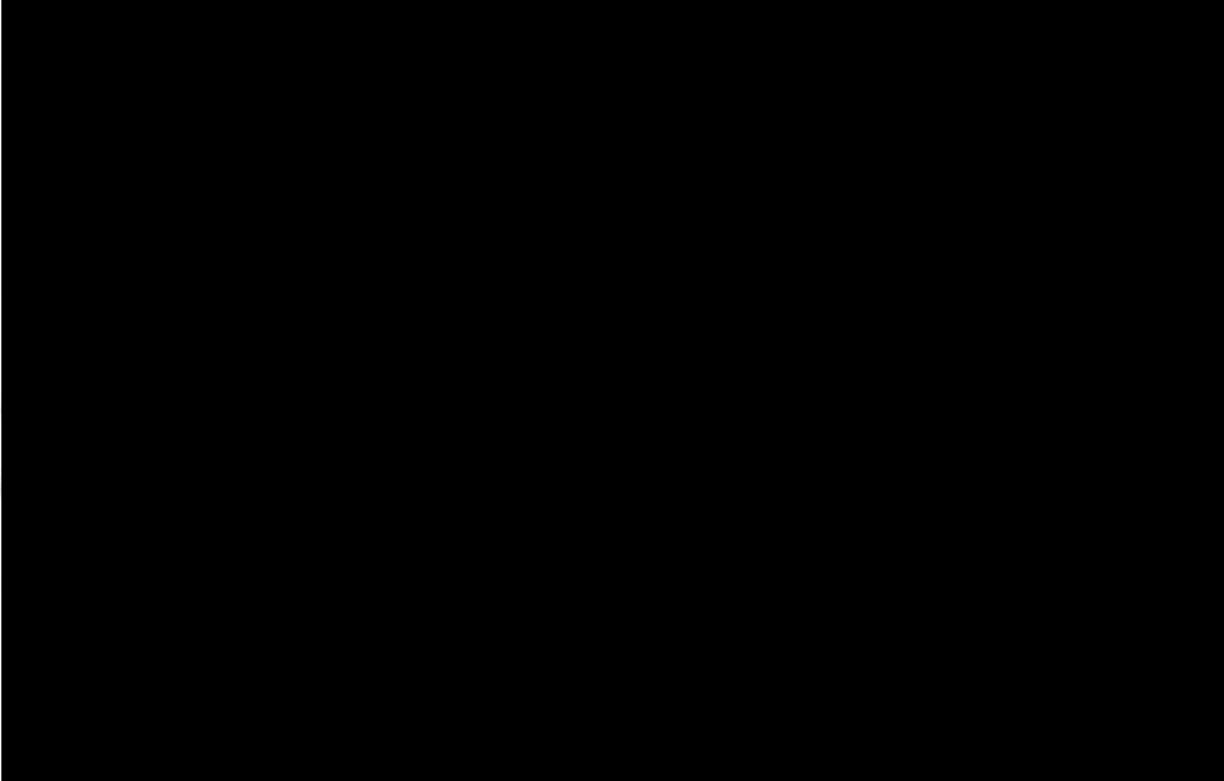
The observations made by the officers at a distance of the individuals engage in a hand shake, clench their fists, and enter a grocery store interpreted as an avoidance of uniformed officers, is all defined as innocuous behavior. Whether analyzed in aggregate or individually, these behaviors do not constitute a reasonable suspicion that [REDACTED] and [REDACTED] had engaged, were engaging or were going to engage in a crime.

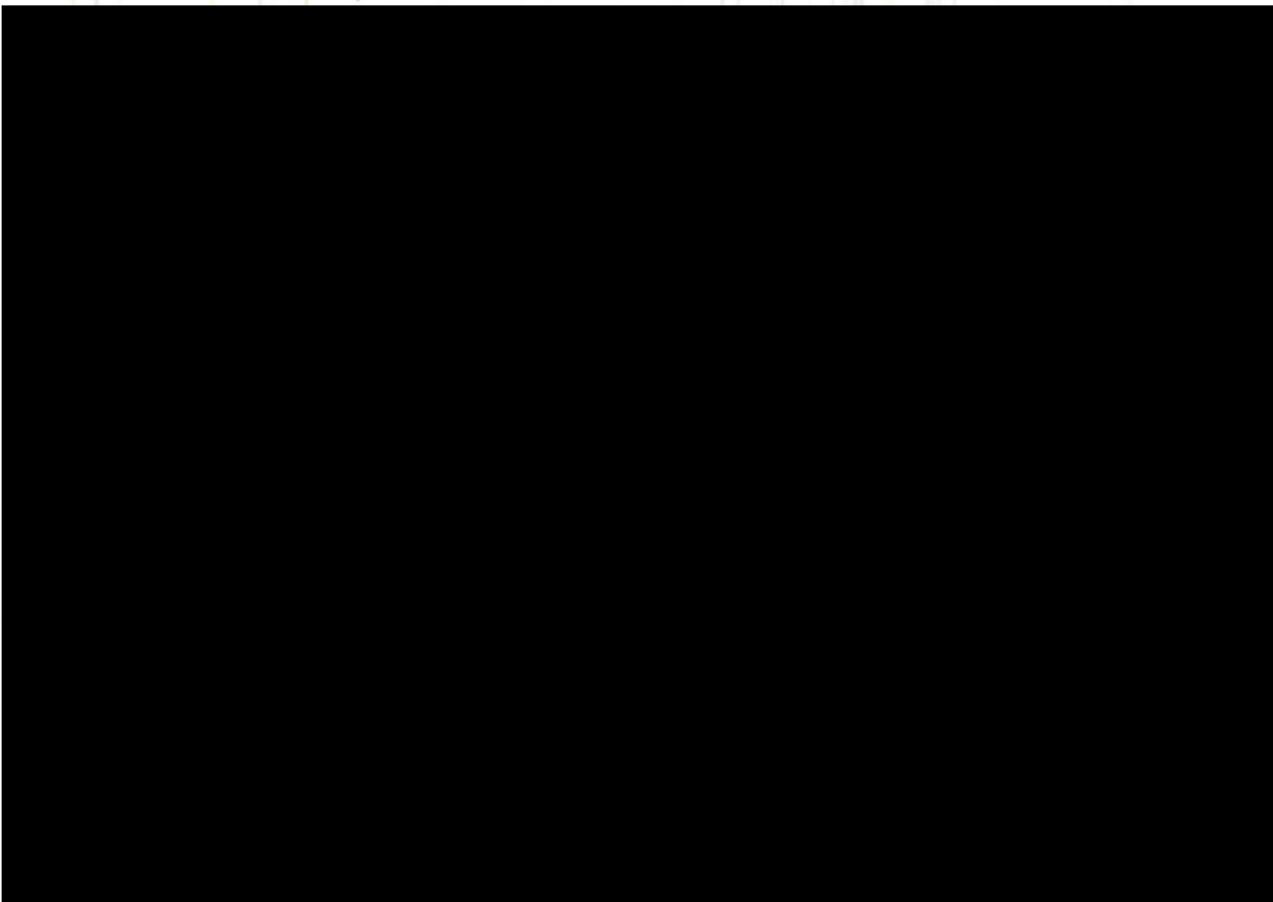
Since the officers only observed innocuous behavior and no objects or currency exchange indicative of a drug transaction, the investigation was able to determine that PO Cordones and PO Everett did not have reasonable suspicion to believe that [REDACTED] and [REDACTED] were involved in a crime. Therefore it is recommended that **Allegations A-B be closed as substantiated**.

Allegation C – Abuse: PO Joseph Cordones frisked [REDACTED]

It is undisputed that PO Cordones frisked [REDACTED]. A defendant's presence in an area where criminal conduct of others has taken place does not provide a basis to support a frisk. People v. Fernandez 261 A.D.2d 178 (1999) (encl. 16-17). In addition, an officer may not frisk an individual suspected of a drug offense unless there is a specific reason to believe the person is armed. People v. Gonzalez 295 A.D.2d 183 (2002) (encl. 18-19).

As stated above, the officers did not observe an exchange of currency or objects and only observed two individuals shake hands, clench their fists, and walk into a grocery store. While the behavior of [REDACTED] and [REDACTED] may be more than innocuous, it did not in any way suggest that either man may have had a weapon. Because [REDACTED]'s actions did not give rise to reasonable suspicion that he was armed, a frisk was not justified. Therefore it is recommended that **Allegation C be closed as substantiated**.





Team: _____

Investigator:	<u>Signature</u>	<u>Print</u>	<u>Date</u>
Supervisor:	<u>Jessica Pérez</u> Title/Signature	<u>Jessica Pérez</u> Print	<u>8/9/11</u> Date
Reviewer:	<u>D. McCormick</u> Title/Signature	<u>DENIS M'CoRMICK</u> Print	<u>8/9/11</u> Date
Reviewer:	<u>Roger Smith</u> Title/Signature	<u>Roger Smith</u> Print	<u>8/9/11</u> Date